



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-010]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China:
Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of
Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“Department”) preliminarily determines that certain crystalline silicon photovoltaic products (“certain solar products”) from the People’s Republic of China (“PRC”) are being, or are likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 733(b) of the Tariff Act of 1930, as amended (“the Act”). The period of investigation (“POI”) is April 1, 2013, through September 30, 2013. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2769 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on January 29, 2014.¹ Pursuant to section 733(c)(1)(B) of the Act, the Department postponed this preliminary LTFV determination by a period of 43 days.²

Scope of the Investigation

The merchandise covered by this investigation is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of this investigation, subject merchandise also includes modules, laminates and/or panels assembled in the subject country consisting of crystalline silicon photovoltaic cells that are completed or partially manufactured within a customs territory other than that subject country, using ingots that are manufactured in the subject country, wafers that are manufactured in the subject country, or cells where the manufacturing process begins in the subject country and is completed in a non-subject country.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

¹ See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations, 79 FR 4661 (January 29, 2014) (“Initiation Notice”).

² See Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and Taiwan: Postponement of Preliminary Determination of Antidumping Duty Investigations, 79 FR 30084 (May 27, 2014).

Excluded from the scope of this investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this investigation are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China. See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order, 77 FR 73018 (December 7, 2012); Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Countervailing Duty Order, 77 FR 73017 (December 7, 2012).

Also excluded from the scope of this investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm² in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Methodology

The Department conducted this investigation in accordance with section 731 of the Act. We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (“NV”) in accordance with section 773(c) of the Act. Further, we determined to apply facts otherwise available with an adverse inference to the PRC-wide entity in accordance with sections 776(a) and (b) of the Act.

For a full description of the methodology underlying our conclusions, see the “Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, (“Preliminary Decision Memorandum”) dated concurrently with this determination and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Department’s Central Records Unit, located in room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Combination Rates

In the Initiation Notice, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.³

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist for the exporter-producer combinations listed below during the period April 1, 2013 through September 30, 2013:

Exporter	Producer	Weighted-Average Dumping Margin (Percent)
Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.	Changzhou Trina Solar Energy Co., Ltd./Trina Solar (Changzhou) Science & Technology Co., Ltd.	26.33
Renesola Jiangsu Ltd./Renesola Zhejiang Ltd./Jinko Solar Co. Ltd./Jinko Solar Import and Export Co., Ltd.	Renesola Jiangsu Ltd./ Jinko Solar Co. Ltd.	58.87
Anji DaSol Solar Energy Science & Technology Co., Ltd.	Anji DaSol Solar Energy Science & Technology Co., Ltd.	42.33
		42.33
Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.)	Asun Energy Co., Ltd. (a/k/a Suzhou Asun Energy Co., Ltd.)	
Baoding Tianwei Yingli New Energy Resources Co., Ltd	Baoding Tianwei Yingli New Energy Resources Co., Ltd., Yingli Energy (China) Co.,Ltd, and Lixian Yingli New Energy Co., Ltd	42.33
BYD (Shangluo) Industrial Co., Ltd.	BYD (Shangluo) Industrial Co., Ltd.	42.33
Canadian Solar International Limited	Canadian Solar Manufacturing (Luoyang) Inc., Canadian Solar Manufacturing (Changshu), Inc.	42.33
Canadian Solar Manufacturing	Canadian Solar Manufacturing	42.33

³ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries," (April 5, 2005) ("Policy Bulletin 05.1"), available on the Department's Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

(Changshu), Inc.	(Changshu), Inc.	
Canadian Solar Manufacturing (Luoyang) Inc.	Canadian Solar Manufacturing (Luoyang) Inc.	42.33
CEEG Nanjing Renewable Energy Co., Ltd.	CEEG Nanjing Renewable Energy Co., Ltd.	42.33
Changzhou Almaden Co., Ltd.	Changzhou Almaden Co., Ltd.	42.33
		42.33
Chint Solar (Zhejiang) Co., Ltd.	Chint Solar (Zhejiang) Co., Ltd.	
		42.33
ET Solar Industry Limited	ET Solar Industry Limited	
Hainan Yingli New Energy Resources Co. Ltd	Hainan Yingli New Energy Resources Co. Ltd	42.33
Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	Hangzhou Zhejiang University Sunny Energy Science and Technology Co., Ltd.	42.33
Hanwha SolarOne (Qidong) Co., Ltd.	Hanwha SolarOne (Qidong) Co., Ltd.	42.33
Hanwha SolarOne Hong Kong Limited	Hanwha SolarOne (Qidong) Co., Ltd.	42.33
Hefei JA Solar Technology Co., Ltd.	Hefei JA Solar Technology Co., Ltd.	42.33
Hengdian Group DMEGC Magnetics Co., Ltd	Hengdian Group DMEGC Magnetics Co., Ltd.	42.33
Hengshui Yingli New Energy Resources Company Limited	Hengshui Yingli New Energy Resources Company Limited	42.33
	Jiangyin Xinhui Solar Co., Ltd.; Altusvia Energy Taicang Co., Ltd.; Hareon Solar Technology Co., Ltd.	42.33
Jiangyin Hareon Power Co., Ltd.		
Jiawei Solarchina Co., Ltd.	Jiawei Solarchina (Shenzhen) Co., Ltd.	42.33
	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	42.33
Jiawei Technology (HK) Ltd.		
LDK Solar Hi-Tech (Nanchang) Co., Ltd.	LDK Solar Hi-Tech (Nanchang) Co., Ltd.	42.33
Lixian Yingli New Energy Company Ltd.	Lixian Yingli New Energy Company Ltd	42.33
MOTECH (Suzhou) Renewable Energy Co., Ltd	MOTECH (Suzhou) Renewable Energy Co., Ltd	42.33
Ningbo Qixin Solar Electrical Appliance Co., Ltd.	Ningbo Qixin Solar Electrical Appliance Co., Ltd.	42.33
Perlight Solar Co., Ltd.	Perlight Solar Co., Ltd.	42.33
Risen Energy Co., Ltd.	Risen Energy Co., Ltd.	42.33

		42.33
Shanghai JA Solar Technology Co., Ltd.	Shanghai JA Solar Technology Co., Ltd.	
		42.33
Shanghai Solar Energy Science & Technology Co., Ltd.	Lianyungang Shenzhou New Energy Co., Ltd.	
Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd.	42.33
Shenzhen Sungold Solar Co., Ltd.	Shenzhen Sungold Solar Co., Ltd.	42.33
		42.33
Shenzhen Topray Solar Co., Ltd.	Shenzhen Topray Solar Co., Ltd.	
Sun Earth Solar Power Co., Ltd.	Sun Earth Solar Power Co., Ltd.	42.33
	Shenzhen Jiawei Photovoltaic Lighting Co. Ltd., Wuhan FYY Technology Co., Ltd.	42.33
Sunny Apex Development Ltd.		
SunPower Systems SARL	SunEnergy (S.Z.) Co., Ltd.	42.33
Upsolar Global Co., Ltd. and including Upsolar Group, Co., Ltd.	Shandong Dahai Group Co. Ltd.	42.33
Wanxiang Import & Export Co., Ltd.	Zhejiang Wanxiang Solar Co., Ltd.	42.33
		42.33
Wuhan FYY Technology Co., Ltd.	Wuhan FYY Technology Co., Ltd.	
Wuxi Suntech Power Co., Ltd	Wuxi Suntech Power Co., Ltd	42.33
	Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co. , Ltd. and Lixian Yingli New Energy Co. , Ltd	42.33
Yingli Energy (China) Company Limited		
	Yingli Energy (China) Company Limited, Baoding Tianwei Yingli New Energy Resources Co., Ltd., and Hainan Yingli New Energy Resources Co., Ltd.	42.33
Yingli Green Energy International Trading Limited		
Zhongli Talesun Solar Co.,Ltd.	Zhongli Talesun Solar Co.,Ltd.	42.33
PRC-Wide Rate		165.04

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance, through Enforcement and Compliance's electronic records system IA ACCESS, no later than seven days after the date on which the final verification report is issued in this proceeding.⁴ Rebuttal briefs, limited to issues raised in case briefs, may be submitted through IA ACCESS no later than five days after the deadline for case briefs.⁵ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically through IA ACCESS. Electronically filed case briefs/written comments and hearing requests must be received successfully in their entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time. Hearing requests must be received by the Department within 30 days after the date of publication of this notice⁶ and should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be presented at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW,

⁴ See 19 CFR 351.309(c).

⁵ See 19 CFR 351.309(d).

⁶ See 19 CFR 351.310(c).

Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of certain solar products from the PRC, as described in the “Scope of the Investigation” section above, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit⁷ equal to the weighted-average amount by which NV exceeds U.S. price, adjusted where appropriate for export subsidies⁸ and estimated domestic subsidy pass-through,⁹ as follows: (1) the cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity, 164.04 percent; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will

⁷ See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

⁸ See section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation, but in the cash deposit instructions issued to CBP. See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁹ For further discussion see the Preliminary Decision Memorandum.

be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter.

Certification Requirements

If an importer imports solar panels/modules that were assembled in the PRC and it claims the panels/modules do not contain solar cells manufactured in third countries using ingots, wafers, or partially produced solar cells manufactured in the PRC, the importer is required to maintain the importer certification included in the Department's cash deposit instructions. The importer and exporter are also required to maintain the exporter certification included in the Department's cash deposit instructions if the exporter of the panels/modules for which the importer is making the claim is located in the PRC. The importer and PRC-exporter are also required to maintain sufficient documentation supporting their certifications. We note that while importers and PRC-exporters will be required to maintain the aforementioned certifications and documentation, they will not have to provide this information to CBP as part of the entry documents, unless the certification or documentation is specifically requested by CBP.

If it is determined that the certification or documentation requirements noted in the certification have not been met, the Department intends to instruct CBP to suspend all unliquidated entries for which these requirements were not met and require the posting of an antidumping duty cash deposit on those entries equal to the PRC-wide rate in effect at the time of the entry.

If a solar panel/module assembled in the PRC contains some solar cells manufactured in third countries using ingots, wafers, or partially produced solar cells manufactured in the PRC, but the importer is unable, or unwilling, to identify the total value of the panel/module subject to provisional measures, the Department intends to instruct CBP to suspend all unliquidated entries

for which the importer has failed to supply this information and require the posting of an antidumping duty cash deposit on the total entered value of the panel/module equal to the PRC-wide rate in effect at the time of the entry.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to requests from the mandatory respondents Changzhou Trina Solar Energy Co., Ltd.,¹⁰ and Renesola Jiangsu Ltd.,¹¹ we are postponing the final determination. Accordingly, we intend to make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹² Further, Trina Solar and Renesola/Jinko requested to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. The suspension of liquidation described above will be extended accordingly.¹³

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this investigation is affirmative, section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain solar products from the PRC, or sales (or the likelihood of sales) for importation, of the merchandise under consideration before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days

¹⁰ See letter from Changzhou Trina Solar Energy Co., Ltd. to the Secretary of Commerce regarding “Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China; Request for Postponement of Final Determination” dated July 9, 2014.

¹¹ See letter from Renesola Jiangsu Ltd. to the Secretary of Commerce regarding “Certain Crystalline Silicon Photovoltaic Products from China; Request to Extend Final Determination” dated July 10, 2014.

¹² See also 19 CFR 351.210(b)(2) and (e).

¹³ Id.

from the date of publication of this preliminary determination the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: July 24, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Attachment I

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Summary
2. Background
3. Period of Investigation
4. Postponement of Preliminary Determination
5. Scope of the Investigation
6. Scope Comments
7. Selection of Respondents
8. Discussion of the Methodology
 - a. Non-market Economy Country
 - b. Surrogate Country
 - c. Surrogate Value Comments
 - d. Separate Rates
 - e. Margin for the Separate Rate Companies
 - f. Combination Rates
 - g. The PRC-wide Entity
 - h. Application of Facts Available and Adverse Facts Available
 - i. Single Entity Treatment
 - j. Date of Sale
 - k. Fair Value Comparisons
 - l. Export Price
 - m. Constructed Export Price
 - n. Normal Value
 - o. Factor Valuation Methodology
 - p. Comparisons to Normal Value
 - q. Currency Conversion
9. Verification
10. Section 777A(f) of the Act
11. Conclusion